

#### **Rule 606. Juror's Competency as a Witness.**

(a) **At the Trial.** A juror may not testify as a witness before the other jurors at the trial. If a juror is called to testify, the court must give a party an opportunity to object outside the jury's presence.

#### **(b) During an Inquiry into the Validity of a Verdict in a Civil Case.**

(1) *Prohibited Testimony or Other Evidence.* During an inquiry into the validity of a verdict in a civil case, a juror may not testify about any statement made or incident that occurred during the jury's deliberations; the effect of anything on that juror's or another juror's vote; or any juror's mental processes concerning the verdict or indictment. The court may not receive a juror's affidavit or evidence of a juror's statement on these matters.

(2) *Exceptions.* A juror may testify about whether:

(A) extraneous prejudicial information was improperly brought to the jury's attention;

(B) an outside influence was improperly brought to bear on any juror; or

(C) a mistake was made in entering the verdict on the verdict form.

#### **Comment to 2012 Amendment**

This rule has been amended to conform to Federal Rule of Evidence 606, including the addition of subdivision (b)(2)(C). However, subsection (b) has not been applied to criminal cases, as is done in Federal Rule of Evidence 606(b), because the matter is covered by Arizona Rule of Criminal Procedure 24.1(d).

Additionally, the language of Rule 606 has been amended to conform to the federal restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent in the restyling to change any result in any ruling on evidence admissibility.

#### **Cases**

#### **Paragraph (b) — Inquiry into validity of verdict in civil action.**

**606.b.060** If there are improper communications with the jurors, the trial court should presume prejudice when (1) the misconduct is significant, (2) the misconduct is prejudicial in nature but its extent is impossible to determine in a close case, and (3) the misconduct is apparently successful.

*Leavy v. Parsell*, 188 Ariz. 69, 932 P.2d 1340 (1997) (trial court entered order precluding issue of a seat belt defense, but in opening statement defendant's counsel mentioned plaintiff's non-use of seat belt and cross-examined a witness about whether plaintiff was wearing one; court presumed prejudice, and suggested trial court should have imposed a monetary sanction).

*Perez v. Community Hosp.*, 187 Ariz. 355, 929 P.2d 1303 (1997) (without informing trial court, bailiff answered jurors' questions telling them: (1) they could not have any testimony reread, (2) what bailiff thought would happen if they told trial court they were deadlocked, and (3) getting answer to their question from trial court would take a long time, so they should be certain if they wanted to send question to trial court; because answers involved important substantive and procedural issues, information was incorrect, and nature of error prevented parties from demonstrating degree of resulting prejudice, court presumed prejudice).

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\* = 2012 Case

606-2